

Chapter 8.04

FOOD HANDLING ESTABLISHMENTS

(514-8/47, 1254-9/66, 1892-2/74, 2407-2/80, 3205-10/93)

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8.04.010 Definitions. The following terms used in this chapter shall have the meanings indicated below; provided, however, said definitions shall also include any amendments or changes made to referenced sections of the California Health and Safety code after January 1, 1991: (3205-10/93)

- (a) Certified farmers' market shall be as defined in section 27512 of the California Health and Safety Code. (3205-10/93)
- (b) Commissary shall be as defined in section 27513 of the California Health and Safety Code. (3205-10/93)
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- (c) Food establishment shall be as defined in section 27520 of the California Health and Safety Code. (3205-10/93)
- (d) Food facility shall be as defined in section 27521 of the California Health and Safety Code. (3205-10/93)
- (e) Food processing establishment shall be as defined in section 28280.1 of the California Health and Safety Code. (3205-10/93)
- (f) Health Department or Department shall mean the Orange County Health Care Agency. (3205-10/93)
- (g) Health Officer shall mean the County Health Officer or his or her deputy. (3205-10/93)
- (h) Inspector shall mean an Environmental Health Specialist, as defined in Health and Safety Code Section 517, employed by the Health Department, or the Health Officer or any Deputy Health Officer authorized to inspect premises or equipment for the enforcement of this chapter. (3205-10/93)

- (i) Mobile food preparation unit shall be as defined in section 27526 of the California Health and Safety Code. (3205-10/93)
- (j) Open-air Barbecue facility shall be as defined in section 27528.5 of the California Health and Safety Code. (3205-10/93)
- (k) Person shall be as defined in section 27530 of the California Health and Safety Code. (3205-10/93)
- (l) Premises shall include land, buildings, vehicles and ships and other vessels wherein food is handled, stored, distributed, prepared, processed, served or sold, and also equipment installed or used in food establishments or food facilities or on such premises. (3205-10/93)
- (m) Produce shall be as defined in section 27533 of the California Health and Safety Code. (3205-10/93)
- (n) Receipt shall mean a County public health services fee receipt. (3205-10/93)
- (o) Restricted food service transient occupancy establishment shall be as defined in section 27535.5 of the California Health and Safety Code. (3205-10/93)
- (p) Satellite food distribution facility shall be as defined in section 27536.5 of the California Health and Safety Code. (3205-10/93)
- (q) Temporary food facility shall be as defined in section 27538 of the California Health and Safety Code. (3205-10/93)
- (r) Vehicle shall be as defined in section 27540 of the California Health and Safety Code. (3205-10/93)
- (s) Vending machine shall be as defined in section 27541 of the California Health and Safety Code. (3205-10/93)
- (t) Vending machine business shall mean the business of selling food or beverages by means of vending machines, regardless of the number of locations at which the vending machines are located. (1254-9/66, 1892-2/74, 2407-2/80, 3205-10/93)

8.04.020 Permit required--Conditions and terms. (3205-10/93)

- (a) It shall be unlawful for any person to operate any food facility, vending machine business, food processing establishment, or any other food handling business governed by this chapter, without first applying for and receiving a food vending permit issued by the Health Department under the provisions of this chapter. (3205-10/93)
- (b) Every applicant for a food-vending permit shall file with the Health Department a written application which shall state the name and address of the applicant, the character and location of the activity for which a permit is required under this chapter and such other information as the Health Department may require. Applicants for a permit to operate a mobile food preparation unit shall, in addition, provide a list of three (3) service stops which shall include the address of exact location and time of each stop. (3205-10/93)
- (c) A permit may be issued when investigation has determined that the proposed facility and its method of operation will conform to all applicable laws and regulations. A permit, once issued, is nontransferable. A permit shall be valid only for the person, location, type of food sales, or distribution activity approved and, unless suspended or revoked, for the time period indicated. (3205-10/93)

(d) Any permit may be suspended or revoked for a violation of any applicable provisions of law or regulation. Any food facility, vending machine business, food processing establishment, or any other food handling business governed by this chapter, for which the permit has been suspended or revoked shall close and remain closed until the permit has been reinstated or until a new permit has been issued. (3205-10/93)

(e) Permits may be granted at any time during the year. A permit shall be posted in a conspicuous place on the premises or vehicle for which it is issued. (3205-10/93)

8.04.030 Construction, conversion and alteration. A person proposing to build or remodel a food facility, vending machine business, food processing establishment, or any other food handling business governed by this chapter, shall submit three (3) copies of the complete plans and specifications to the Department for review and approval pursuant to the applicable requirements of the California Health and Safety Code. The Health Officers may thereafter issue a certificate stating what modifications, if any, are required for compliance with applicable laws and ordinances. (514-8/47, 1254-9/66, 1892-2/74, 2407-2/80, 3205-10/93)

8.04.040 Suspension of permits. A permit issued under this chapter or its predecessor may be suspended or revoked under the procedure set forth in this chapter for any of the following reasons: (514-8/47, 1254-9/66, 1892-2/74, 3205-10/93)

(a) Violation of state law; (3205-10/93)

(b) Violation of this chapter; (3205-10/93)

(c) Violation of the rules and regulations adopted pursuant to this chapter; or (3205-10/93)

(d) Upon recommendation by the Health Officer. (3205-10/93)

8.04.050 Notice of violation. When any laws, this chapter, or rules and regulations have been violated, an inspector may serve written notice thereof entitled, "Notice of Violation," specifying: (3205-10/93)

(a) The acts or omissions with which the permittee is charged. (3205-10/93)

(b) The provision or provisions violated thereby. (3205-10/93)

(c) The corrective steps required. (3205-10/93)

(d) The date by which all such corrections must be completed, allowing a reasonable period therefor. (3205-10/93)

(e) That the permittee has a right to a hearing, upon written request or that a mandatory hearing has been scheduled. (3205-10/93)

(f) That if no hearing is requested or the permittee fails to appear at the scheduled hearing and if the Health Department does not receive notice that all such corrections have been made before 9 a.m. on the date specified under (d) above, the permit will be subject to suspension or revocation from that time until such violations are corrected. (1254-9/66, 1892-2/74, 3205-10/93)

8.04.060 Hearing. The hearing shall be held by the Health Officers or his or her duly authorized representative who is a qualified Environmental Health Specialist as defined in Section 517 of the Health and Safety Code and registered as provided in Section 529 thereof, but shall not be the inspector who reported the violations or who inspected any corrective measure taken. (3205-10/93)

- (a) The permit holder shall have the right to a hearing, if requested, on all violations listed in the notice. A written request for a hearing shall be made by the permittee within fifteen (15) calendar days after receipt of the notice. A failure to request a hearing within fifteen (15) calendar days after receipt of the notice shall be deemed a waiver of the right to a hearing. When circumstances warrant, the Hearing Officer may order a hearing at any reasonable time within this fifteen (15) day period to expedite the permit suspension or revocation process. (3205-10/93)

The hearing shall be held within fifteen (15) calendar days of the receipt of a request for a hearing. Upon written request of the permittee, the Hearing Officer may postpone any hearing date, if circumstances warrant such action. (3205-10/93)

- (b) At the conclusion of the hearing, the Hearing Officer shall issue a written notice of decision to the permittee within five (5) working days following the hearing. In the event of a suspension or revocation, the notice shall specify the acts or omissions with which the permittee is charged, and shall state the terms of the suspension, or that the permit has been revoked. (3205-10/93)

The Health Officers may, after providing opportunity for a hearing, modify, suspend, or revoke a permit for serious or repeated violations of any of the requirements of the applicable laws, rules and regulations. (3205-10/93)

8.04.070 Mobile food preparation units--generally. In addition to all other applicable provisions of the Health and Safety Code and of this chapter, mobile food preparation units shall comply with the following safety requirements: (3205-10/93)

- (a) Compressors, auxiliary engines, generators, batteries, battery chargers, gas-fueled water heaters, and similar equipment shall be installed so as to be accessible only from the outside of the unit. (3205-10/93)
- (b) All equipment installed in any part of the unit shall be secured so as to prevent movement during transit and to prevent detachment in the event of a collision or overturn. (3205-10/93)
- (c) All equipment installed within the interior of the unit, including the interiors of cabinets or compartment, shall be constructed so as to be free of sharp or jagged edges. (3205-10/93)
- (d) All utensils shall be stored so as to prevent their being hurled about in the event of a sudden stop, collision or overturn. A safety knife holder shall be provided to avoid loose storage of knives in cabinets, boxes or slots along counter aisles. Knife holders shall be designed to be easily cleaned and be manufactured of materials approved by the Health Officers. (3205-10/93)
- (e) Ceiling light fixtures shall be recessed or flush-mounted and sealed and shall be equipped with safety covers approved by the Health Officer. The minimum clearance from the floor to the light fixture shall be at least one hundred eighty-eight (188) centimeters (seventy-six (76) inches) or the fixture shall be installed out of the traffic aisle or work area. (3205-10/93)
- (f) High voltage (110-120v) electrical wiring shall be properly installed in electrical conduit with all splices or connections being made within junction, outlet or switch boxes to prevent the use of extension cords exceeding one hundred eighty-three (183) centimeters (six (6) feet). Outside electrical connection receptacles shall be of weatherproof design with cover. (3205-10/93)
- (g) Attached, firmly anchored seats with backrests, equipped with seat belts, shall be provided for all occupants. If a jump seat in the aisleway is utilized, it shall fold in a manner that will clear the aisleway when not in use and be held with a self-latching mechanism. Seats and backrests shall be at least thirty-five and five-tenths (35.5) centimeters (fourteen (14) inches by fourteen (14) inches) in size. All occupants shall be seated, shall wear seat belts and shall not cook or prepare food while the unit is in motion. Signs setting forth the latter three (3) requirements shall be posted in both English and Spanish. (3205-10/93)

- (h) A first-aid kit approved by the Health Officers shall be provided and located in a convenient area in an enclosed case. (3205-10/93)
- (i) All pressure cylinders shall be securely fastened to a rigid structure of the unit. All liquefied petroleum gas (LPG) equipment shall be installed as follows: (3205-10/93)
 - (1) The LP gas tanks and relief valves shall be ASME approved for intended use. (3205-10/93)
 - (2) Tanks shall be securely fastened and located where they will normally not be subject to damage. They may be in a body compartment or underneath the body. The tank or fittings must not protrude beyond the body. (3205-10/93)
 - (3) Tanks and regulators shall be separated from any open flame by a vapor-tight partition. (3205-10/93)
 - (4) When tanks are installed in a body compartment, the partitions shall be sealed off from the rest of the body with no openings to the interior except for the tubing. The following additional requirements shall be met: (3205-10/93)
 - (a) All tank valves and fittings shall be readily accessible from outside the unit. (3205-10/93)
 - (b) The tank safety relief valve shall be vented to the outside and directed downward. (3205-10/93)
 - (c) The filling shall be done through an outside door to the compartment. (3205-10/93)
 - (d) The compartment shall be vented to the exterior of the unit so as to prevent accumulation of gas. (3205-10/93)
 - (5) Tubing that passes through partitions shall be protected by grommets made of rubber or other approved materials. (3205-10/93)
 - (6) Tubing exposed to friction shall be protected against chafing. (3205-10/93)
 - (7) Expansion and contraction bends shall be made in the tubing between the tank and the appliance. (3205-10/93)
 - (8) ASME-approved LP gas tubing or standard weight pipe shall be used throughout. (3205-10/93)
 - (9) Protective "thread" caps shall be installed on fill-line check valves. (3205-10/93)
 - (10) Every appliance fueled by LP gas shall be equipped with a pilot light attachment and provided with an ASME-approved device which will automatically shut off all gas to the appliance if the pilot light should be extinguished. (3205-10/93)
- (j) A minimum five (5) B.C. - rated portable fire extinguisher (UL or State Fire Marshal approved design) shall be installed in plain sight and within easy reach, immediately inside the front driver's door. The extinguisher shall be replaced or recharged after each use. (3205-10/93)

8.04.080 Additional requirements for mobile food preparation units operating in multi-locations in any day. In addition to the requirements specified in Section 8.04.070 above, mobile food preparation units which operate at more than one (1) location in any calendar day, shall comply with the following additional requirements: (3205-10/93)

- (a) Coffee urns shall be installed in a compartment that will prevent excessive spillage of coffee in the interior of the unit in the event of a sudden stop, collision or overturn, or, as an alternative to this requirement, coffee urns shall be equipped with positive closing lids as well as perforated metal protective sleeves on the glass liquid level sight gauges. (3205-10/93)
- (b) Deep fat fryers are prohibited, unless equipped with positive closing lids to contain the fat and to prevent splashing or excessive spillage in transit or in the event of a sudden stop, collision or overturn of the unit. Such lids shall be designed and constructed so as to prevent pressure buildup which could result in an explosion. All lids shall be kept positively closed while the unit is in motion. Signs setting forth the latter requirement shall be posted in both English and Spanish. (3205-10/93)
- (c) Water bath or steam food insert tables shall be provided with baffles to prevent surging in transit. All such tables, as well as dry heat units, their insert food containers and similar equipment that contains hot liquids or hot foods shall have positive closing lids to contain all such liquids or foods and to prevent splashing or spillage in transit or in the event of a sudden stop, collision or overturn of the unit. Such lids shall be designed and constructed so as to prevent pressure buildup which could result in an explosion. All lids shall be positively closed while the unit is in motion. Signs setting forth the latter requirement shall be posted in both English and Spanish. (3205-10/93)
- (d) An alternate means of exit in the side opposite the main exit door, or the roof, or the rear of the unit, with unobstructed passage of sixty-one (61) centimeters by ninety-two (92) centimeters (twenty-four (24) inches by thirty-six (36) inches) minimum to the outside, shall be provided. The interior latching mechanism shall be operable by hand without special tools or key. The exit shall be labeled "Safety Exit" in contrasting colors with at least two and fifty-four one-hundredths (2.54) centimeters (one (1) inch) high letters. (3205-10/93)

8.04.090 Suspension for refusal of entry. It shall be a violation of this chapter for the purpose of inspecting any of the premises described in Section 8.04.020 above, or any portion thereof; and in such event the inspector may forthwith suspend the food vending permit issued for the premises. (3205-10/93)

8.04.100 Summary suspension. (3205-10/93)

- (a) If any immediate danger to the public health or safety is found, unless the danger is immediately corrected, an inspector may temporarily suspend the permit and order the premises immediately closed. "Immediate danger to the public health and safety" means any condition, based upon inspection findings or other evidence, that can cause food infection, food intoxication, disease transmission, or hazardous condition, including but not limited to unsafe food temperature, sewage contamination, nonpotable water supply, or an employee who is a carrier of a communicable disease. (3205-10/93)
- (b) Whenever a permit is suspended as the result of an immediate danger to the public health or safety, the inspector shall issue to the permittee a notice setting forth the acts or omissions with which the permittee is charged, specifying the pertinent code section, and informing the permittee of the right to a hearing. (3205-10/93)
- (c) At any time within fifteen (15) calendar days after service of a notice pursuant to subsection (b), the permittee may request in writing a hearing before a hearing officer to show cause why the permit suspension is not warranted. The hearing shall be held within fifteen (15) calendar days of the receipt of a request for a hearing. A failure to request a hearing within fifteen (15) calendar days shall be deemed a waiver of the right to such hearing. (3205-10/93)

8.04.110 Supervision of closing down premises. When any permit is first suspended hereunder, or when any premises governed hereby shall have been closed for business and left in an unsanitary condition, the Health Department shall have the power to enter to ensure that the premises are closed down in a manner which will not endanger the public health. If the permittee or his employee in charge cannot be found, or is unwilling or unable to remedy the condition of the premises, the owner of the premises shall be notified of the unsanitary conditions and shall be required to take such remedial action as may be necessary to obviate such condition. (3205-10/93)

8.04.120 Rules and regulations. The Health Officer may adopt and enforce rules and regulations necessary to administer this chapter including, but not limited to, regulations pertaining to: (3205-10/93)

- (a) Forms for applications, permits and notices. (3205-10/93)
- (b) Forms and procedures for hearing upon the granting, denying, suspending, revoking or reinstating of permits. (3205-10/93)
- (c) Inspections of premises and reporting thereon. (3205-10/93)

8.04.130 Fees. The purpose of this section is to establish fees sufficient to meet the reasonable expenses of the Health Officers enforcing State statutes, orders, quarantines and rules and regulations of State offices and departments relating to public health, which expenses are hereby found not to be met by the fees prescribed by the State. The authority for this section is contained in Section 510 of the Health and Safety Code. (3205-10/93)

The County shall, by annual Board Resolution, adopt health service fees to be paid by the proprietor or operator of the food facility. Such fees are to be paid directly to the County Health Office and retained by the County as reimbursement for said services related to this ordinance. (3205-10/93)

- (a) Area of Application. This section shall be enforceable within the territory in which the Health Officer enforces any State statute, order, quarantine or rule or regulation of any State office or department relating to public health, including incorporated as well as unincorporated territory. (3205-10/93)
- (b) Violation. It shall be unlawful for any person to conduct any activity enumerated in this section without a valid receipt. (3205-10/93)
- (c) Separate Activities. If a person shall conduct more than one of the activities for which a receipt is required, he must obtain a separate receipt for each activity, except as otherwise provided herein. (3205-10/93)
- (d) Applications. Applications for a receipt shall be filed with the Health Department on a form to be provided by that Department. The applications shall be accompanied by payment of the required fee. An application for or recipient of a receipt shall provide the Health Officer with any information requested by him or her. (3205-10/93)

8.04.140 Penalty. Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor. (3205-10/93)

8.04.150 Preemption. This chapter shall not apply to any matter to the extent that the regulation of such matter is preempted by state law. (3205-10/93)